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FISCAL IMPACT REPORT



SPONSOR: Gorham DATE TYPED: 02/03/02 HB _____

SHORT TITLE: Amend Megan's Law SB 329

ANALYST: Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
		\$0.1	Indeterminate		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB 332

SOURCES OF INFORMATION

Administrative Office of the Courts (AOC)
 Attorney General's Office (AG)
 Administrative Office of the District Attorneys (ADA)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

SB 329 expands the list of sex offenses, requires longer time periods, more frequent registration renewal, longer retention of registration data and public access to data about more categories of offenders.

SB 329 broadens existing registration requirements to incorporate juvenile offenders, adds additional crimes that will have a registration requirement, requires quarterly renewal of registration, extends the registration period to a lifetime requirement for the most serious sex offenders and repeat sex offenders, and extends the registration requirement to twenty years for other specified sex offenders. The bill also requires registrants to provide documentary proof of the data that they provide to the state. The bill also enlarges the period of time that the DPS must retain registration information to the lifetime of the offender for most sexual crimes, and for all repeat offenders. The lowest level of felony sexual crimes will result in registration records that are kept by DPS for

twenty years. Finally, SB 329 adds third degree criminal sexual penetration offenders to the list of registrants whose data will be available to the public via notification from the county sheriff, via Internet web site, or via individual requests.

Significant Issues

Some constitutional challenges have been raised in other states. Megan's laws have been well tested on federal constitutional grounds and have survived those challenges. According to federal law, Megan's Laws do not implicate the Eighth Amendment protections, bill of attainder, double jeopardy, and are not violations of the prohibition on "ex post facto" laws.

Federal law has been enacted to encourage states to pass legislation to address comprehensive sex offender registration. Financial incentives include potential loss of federal unrestricted law enforcement funds that, in our state, may be used to fund drug treatment, domestic violence projects, prosecution of career criminals, among other uses. To continue to receive those funds, New Mexico must enact a lifetime sexual offender registration requirement that comports with the Jacob Wetterling Act and the Pam Lychner Act. The Lychner Act requirements that have been identified by the Department of Justice as deficient in New Mexico's laws are the lack of lifetime registry for offenders convicted of sexual penetration through the use of force or threats of serious violence, repeat sexual offenders, and sexual offenders whose victims are below the age of twelve. The Wetterling Act requires that a person convicted of a sex offense who suffers from a congenital or acquired condition that predisposes the person to the commission of criminal sexual acts, to the degree that makes the person a danger to the health and safety of others, must also register as a sex offender for a lifetime. Both Acts require that there be no mechanism to terminate the sex offender registration requirement for a valid conviction.

ADMINISTRATIVE IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes.

DUPLICATION

Duplicates HB 332, Amends Megans Law

DW/ar